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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

Writ Petition No. 1146 of 1998

PETITIONERS

1. Sadhram s/o Manohar Gond aged about 50 years resident of Village Kusmura Tah. & Dist. Raigarh, Madhya Pradesh.

2. Gopal s/o Kanna Uranv aged about 55 years, resident of Village Jabga Tah. Dharamjaigarh, Dist. Raigarh, Madhya Pradesh.

VERSUS

RESPONDENTS

1. State of M.P. through Secretary, Revenue Department, Vallabh Bhawan, Bhopal.

2. The Collector, Raigarh, Dist. Raigarh M.P.

3. The Sub Divisional Officer (Civil), Dharamjaigarh Dist. Raigarh, Madhya Pradesh.

4. Amar Singh s/o Jai Mangal Singh, Majhwar aged about 55 years

5. Rambharos s/o Daulatram Aghariya aged about 65 years

6. Sahebram s/o Daulatram/Aghariya aged about 60 years

Respondents no. 4, 5 & 6 are all residents of Village Boro, Tah. Dharamjaigarh, Dist. Raigarh MADHYA PRADESH.

Present: Shri P. Diwakar, learned Sr. Advocate with Shri Adil Minhaj, learned counsel for the petitioner.
Shri Sanjay S. Agrawal, learned G.A. for the State/ respondents 1 to 3.
Shri V.R. Tiwari, learned counsel for respondent No.4.

ORAL ORDER

(Passed on 22nd June, 2006)

Against the order of the Sub Divisional Officer dated 17.02.98 (Annexure A/4) impugned in this writ petition, an appeal lies to the jurisdictional Collector under Section 44 of the Chhattisgarh Land Revenue Code 1959 (for short "the Code").

2. Having heard learned counsel for the parties, I do not find any extraordinary situation or circumstance which could persuade the Court to permit the petitioner straightaway to rush to this Court under Articles 226 and 227 of the Constitution without exhausting alternative, effective, comprehensive legal remedies provided under the Code. It needs to be noticed that not only an appeal lies against the impugned order under Section 44 of the Code, the petitioner can also further avail legal remedy by way of a revision to the Board of Revenue under Section 50 of the Code. Above all, the dispute brought before the Court, among legal questions, would also involve factual controversies. Such factual controversies cannot be resolved in a summary proceeding under Article 226 of the Constitution. Looking from any angle, this is not a fit case to be undertaken for adjudication under Article 226 of the Constitution. In that view of the matter, I dismiss the writ petition, however, reserving liberty to the petitioner to avail of appeal remedy provided under Section 44 of the Code. It is directed that if the petitioner files an appeal within a period of one month from today, the jurisdictional Collector is directed to dispose of such appeal on merit, in accordance with law, without reference to the limitation. The interim order passed by this Court shall remain in force for a period of six weeks from today. It is open for the petitioner to move appropriate application before the Collector for interim order/s. No costs.

Sd/-
Chief Justice

Subby